

House File 791 - Introduced

HOUSE FILE 791

BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HSB 266)

A BILL FOR

1 An Act relating to public records including confidentiality,
2 access, and the enforcement of public records violations,
3 and uniform commercial code filings; certain employment
4 matters including benefits, workers' compensation, civil
5 actions, and civil immunity; and law enforcement including
6 law enforcement officer rights, eluding law enforcement, and
7 carrying firearms; and providing penalties.
8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

PUBLIC RECORDS — CONFIDENTIALITY — CIVIL ENFORCEMENT

1
2 Section 1. Section 9E.1, Code 2021, is amended to read as
3 follows:
4

5 **9E.1 Purpose.**

6 The general assembly finds that individuals attempting to
7 escape from actual or threatened domestic abuse, domestic
8 abuse assault, sexual abuse, assault, stalking, or human
9 trafficking frequently establish new addresses in order to
10 prevent their assailants or probable assailants from finding
11 them. The purpose of [this chapter](#) is to enable state and local
12 agencies to respond to requests for data without disclosing
13 the location of a victim of domestic abuse, domestic abuse
14 assault, sexual abuse, assault, stalking, or human trafficking;
15 to enable interagency cooperation with the secretary of state
16 in providing address confidentiality for victims of domestic
17 abuse, domestic abuse assault, sexual abuse, assault, stalking,
18 or human trafficking; and to enable program participants to use
19 an address designated by the secretary of state as a substitute
20 mailing address for the purposes specified in [this chapter](#).
21 In addition, the purpose of [this chapter](#) is to prevent such
22 victims from being physically located through a public records
23 search.

24 Sec. 2. Section 9E.2, subsection 6, paragraph a, Code 2021,
25 is amended to read as follows:

26 *a. "Eligible person" means a person who is ~~all~~ a resident of
27 this state, an adult, a minor, or an incapacitated person as
28 defined in section 633.701, and is one of the following:*

29 (1) ~~A resident of this state.~~

30 (2) ~~An adult, a minor, or an incapacitated person as defined~~
31 ~~in [section 633.701](#).~~

32 (3) A victim of domestic abuse, domestic abuse assault,
33 sexual abuse, assault, stalking, or human trafficking as
34 evidenced by the filing of a petition pursuant to [section 236.3](#)
35 or a criminal complaint or information pursuant to section

1 708.1, 708.2A, 708.11, or 710A.2, or any violation contained
2 in chapter 709.

3 (2) A currently active or retired state or local judicial
4 officer, as defined in section 4.1, or a spouse or child of
5 such a person.

6 (3) A currently active or retired state or local prosecuting
7 attorney, as defined in section 801.4, or a spouse or child of
8 such a person.

9 (4) A currently active or retired peace officer, as defined
10 in section 801.4, or a spouse or child of such a person.

11 Sec. 3. Section 9E.3, subsection 1, paragraph b,
12 subparagraph (1), subparagraph division (a), Code 2021, is
13 amended to read as follows:

14 (a) The eligible person listed on the application is a
15 victim of domestic abuse, domestic abuse assault, sexual abuse,
16 assault, stalking, or human trafficking.

17 Sec. 4. Section 9E.3, subsection 1, paragraph e, Code 2021,
18 is amended to read as follows:

19 e. The residential address of the eligible person,
20 disclosure of which could lead to an increased risk of domestic
21 abuse, domestic abuse assault, sexual abuse, assault, stalking,
22 or human trafficking.

23 Sec. 5. Section 22.10, subsection 3, paragraph b,
24 subparagraph (2), Code 2021, is amended to read as follows:

25 (2) Had good reason to believe and in good faith believed
26 facts which, if true, would have indicated compliance with
27 the requirements of this chapter. For purposes of this
28 subparagraph, "good reason to believe and in good faith believed"
29 means the person engaged in a balancing test in weighing the
30 individual privacy interest against the public's need to access
31 the record based upon a reasonable reliance on the facts.

32 DIVISION II

33 UNIFORM COMMERCIAL CODE — FRAUDULENT FILINGS

34 Sec. 6. Section 554.9516, Code 2021, is amended by adding
35 the following new subsection:

1 NEW SUBSECTION. 5. *Fraudulent filings.*

2 a. The filing office may refuse to accept a financing
3 statement that it determines is not created pursuant to the
4 uniform commercial code, or is otherwise intended for an
5 improper purpose, such as to hinder, harass, or otherwise
6 wrongfully interfere with any person. The filing office may
7 also refuse to accept a financing statement that names the same
8 person as both debtor and secured party, describes collateral
9 not within the scope of applicable law, or is being filed for
10 a purpose other than a transaction within the scope of the
11 uniform commercial code.

12 b. If the filing office becomes aware that a financing
13 statement or other record was not created pursuant to the
14 uniform commercial code, or was otherwise intended for an
15 improper purpose, such as to hinder, harass, or otherwise
16 wrongfully interfere with any person, the filing office
17 shall review the record and relevant circumstances and, if it
18 determines that the record was wrongfully filed, the record
19 shall be deemed void and ineffective; and the filing office
20 shall remove the record from the index and communicate the
21 foregoing to the person that presented the wrongfully filed
22 record and to other persons, as appropriate.

23 DIVISION III

24 ACCRUED SICK LEAVE — RETIRED PUBLIC SAFETY EMPLOYEES

25 Sec. 7. NEW SECTION. 70A.23A **Credit for accrued sick leave**
26 **— public safety employees.**

27 A public safety employee, as defined by section 20.3,
28 subsection 11, who retires and has applied for retirement
29 benefits under an eligible retirement system, shall receive
30 credit for all accumulated, unused sick leave which shall be
31 converted at current value and credited to an account for the
32 public safety employee for the purpose of paying the public
33 safety employee's cost of the monthly premiums for continuance
34 of the public safety employee's health insurance plan. Upon
35 the death of a retired public safety employee, the spouse

1 or surviving spouse shall be entitled to the value of the
2 accumulated unused sick leave for the purpose of paying the
3 cost of monthly premiums for continuation of a public safety
4 employee's health insurance policy for the public safety
5 employee's surviving spouse or dependents. This subsection
6 shall not apply to sections 509A.13 and 509A.13A.

7 DIVISION IV

8 WORKERS' COMPENSATION — ACTIONS AND OFFSETS

9 Sec. 8. Section 85.26, subsection 1, Code 2021, is amended
10 to read as follows:

11 1. An original proceeding for benefits under [this chapter](#)
12 or [chapter 85A](#), [85B](#), or [86](#), shall not be maintained in any
13 contested case unless the proceeding is commenced within two
14 years from the date of the occurrence of the injury for which
15 benefits are claimed or one year from the date a denial of
16 liability is received by the employee, whichever is later,
17 or, if weekly compensation benefits are paid under section
18 86.13, within three years from the date of the last payment
19 of weekly compensation benefits. For the purposes of this
20 section, "*date of the occurrence of the injury*" means the date
21 that the employee knew or should have known that the injury was
22 work-related.

23 Sec. 9. Section 97B.50A, subsection 5, Code 2021, is amended
24 to read as follows:

25 5. *Offset to allowance.*

26 a. Notwithstanding any provisions to the contrary in state
27 law, or any applicable contract or policy, any amounts which
28 may be paid or payable by the employer under any workers'
29 compensation, unemployment compensation, employer-paid
30 disability plan, program, or policy, or other law to a member,
31 and any disability payments the member receives pursuant to
32 the federal Social Security Act, 42 U.S.C. §423 et seq.,
33 shall be offset against and payable in lieu of any retirement
34 allowance payable pursuant to [this section](#) on account of the
35 same disability.

1 b. Notwithstanding paragraph "a", any workers' compensation
2 benefits received by a member for past medical expenses or
3 future medical expenses shall not be offset against and not
4 considered payable in lieu of any retirement allowance payable
5 pursuant to this section on account of the same disability.

6 c. Notwithstanding paragraph "a", any workers' compensation
7 benefits received by a member for reimbursement of vacation
8 time used, sick time used, or for any unpaid time off from work
9 shall not be offset against and not considered payable in lieu
10 of any retirement allowance payable pursuant to this section on
11 account of the same disability.

12 DIVISION V

13 CIVIL SERVICE COMMISSION EXAMINATIONS

14 Sec. 10. Section 400.8, subsection 2, Code 2021, is amended
15 to read as follows:

16 2. The commission shall establish the guidelines for
17 conducting the examinations under [subsection 1](#) of [this section](#).
18 ~~It may prepare and administer the examinations or may~~ The
19 commission shall hire persons with expertise to do so if the
20 commission approves the examinations prepare and administer
21 the examinations approved by the commission. It may also
22 hire persons with expertise to consult in the preparation of
23 such examinations if the persons so hired are employed to aid
24 personnel of the commission in assuring that a fair examination
25 is conducted. A fair examination shall explore the competence
26 of the applicant in the particular field of examination.

27 Sec. 11. Section 400.9, subsection 2, Code 2021, is amended
28 to read as follows:

29 2. The commission shall establish guidelines for conducting
30 the examinations under [subsection 1](#). ~~It may prepare and~~
31 ~~administer the examinations or may~~ The commission shall hire
32 persons with expertise to do so if the commission approves
33 ~~the examinations and if the examinations apply to~~ prepare and
34 administer the examinations approved by the commission for
35 the position in the city for which the applicant is taking

1 the examination. It may also hire persons with expertise to
2 consult in the preparation of such examinations if the persons
3 so hired are employed to aid personnel of the commission
4 in assuring that a fair examination is conducted. A fair
5 examination shall explore the competence of the applicant in
6 the particular field of examination. The names of persons
7 approved to administer any examination under **this section** shall
8 be posted in the city hall at least twenty-four hours prior to
9 the examination.

10 DIVISION VI

11 STATE AND MUNICIPAL TORT CLAIMS

12 Sec. 12. Section 669.14, Code 2021, is amended by adding the
13 following new subsection:

14 NEW SUBSECTION. 1A. Any claim based upon an act or omission
15 of an employee of the state, exercising due care, in the
16 execution of or enforcement of any law.

17 Sec. 13. Section 670.2, Code 2021, is amended by adding the
18 following new subsection:

19 NEW SUBSECTION. 4. An employee is not personally liable
20 for a claim based upon an act or omission of the person taken
21 in execution or enforcement of any law except for acts or
22 omissions which involve intentional misconduct or knowing
23 violations of the law.

24 Sec. 14. Section 670.7, Code 2021, is amended by adding the
25 following new subsection:

26 NEW SUBSECTION. 5. The governing body of a municipality
27 shall purchase and maintain insurance or join a local
28 government risk pool pursuant to this section for claims for
29 punitive damages in tort actions for wrongful death, excessive
30 force, and arrest filed without probable cause against its
31 law enforcement and public safety officers, employees, and
32 volunteers, whether elected or appointed, arising out of an
33 alleged act or omission occurring within the scope of such
34 a person's employment or duties. The governing body may
35 purchase and maintain insurance or join a local government

1 risk pool for claims for punitive damages against its law
2 enforcement and public safety officers, employees, and persons
3 who do not receive compensation for their services for other
4 tort actions. This subsection does not waive a defense of
5 governmental immunity to any claim or action brought against a
6 law enforcement or public safety officer, employee, or a person
7 who does not receive compensation for their services.

8 DIVISION VII

9 LAW ENFORCEMENT — OFFICER RIGHTS — ELUDING LAW ENFORCEMENT —
10 CARRYING FIREARMS

11 Sec. 15. Section 80F.1, Code 2021, is amended by adding the
12 following new subsection:

13 NEW SUBSECTION. 2A. A formal administrative investigation,
14 informal inquiry, or interview under this chapter shall not be
15 conducted unless a complaint is filed within one hundred eighty
16 days after the alleged action occurred.

17 Sec. 16. Section 80F.1, subsections 13 and 19, Code 2021,
18 are amended to read as follows:

19 ~~13. An officer shall have the right to pursue civil remedies~~
20 ~~under the law against a citizen arising from the filing of a~~
21 ~~false complaint against the officer~~ In addition to any other
22 remedies available, an officer shall have the right to pursue
23 civil remedies under the law against any person, group of
24 persons, employer, organization, or corporation for damages
25 arising from the filing of a false complaint or any other
26 violation of this chapter including but not limited to actual
27 damages, court costs, and reasonable attorney fees.

28 19. If a formal administrative investigation results in
29 removal, discharge, suspension, or disciplinary action against
30 an officer, and the officer alleges in writing a violation of
31 the provisions of this section, the municipality, county, or
32 state agency employing the officer shall hold in abeyance ~~for~~
33 ~~a period of ten days~~ any punitive action taken as a result of
34 the investigation, including a reprimand, until the conclusion
35 of any appeal or grievance exercised by the officer. An

1 allegation of a violation of **this section** may be raised and
2 given due consideration in any properly authorized grievance
3 or appeal exercised by an officer, including but not limited
4 to a grievance or appeal exercised pursuant to the terms of an
5 applicable collective bargaining agreement and an appeal right
6 exercised under **section 341A.12** or **400.20**.

7 Sec. 17. Section 321.279, Code 2021, is amended to read as
8 follows:

9 **321.279 Eluding or attempting to elude pursuing law**
10 **enforcement vehicle.**

11 1. *a.* The driver of a motor vehicle commits a ~~serious~~ an
12 aggravated misdemeanor if the driver willfully fails to bring
13 the motor vehicle to a stop or otherwise eludes or attempts to
14 elude a marked or unmarked official law enforcement vehicle
15 driven by a ~~uniformed~~ peace officer after being given a visual
16 and audible signal to stop. The signal given by the peace
17 officer shall be by flashing red light, or by flashing red and
18 blue lights, and siren. For purposes of **this section**, "*peace*
19 *officer*" means those officers designated under section 801.4,
20 subsection 11, paragraphs "*a*", "*b*", "*c*", "*f*", "*g*", and "*h*".

21 *b.* The driver of a motor vehicle who commits a second or
22 subsequent violation under **this subsection** is, upon conviction,
23 guilty of ~~an aggravated misdemeanor~~ a class "D" felony.

24 2. *a.* The driver of a motor vehicle commits ~~an aggravated~~
25 ~~misdemeanor~~ a class "D" felony if the driver willfully fails
26 to bring the motor vehicle to a stop or otherwise eludes or
27 attempts to elude a marked or unmarked official law enforcement
28 vehicle that is driven by a ~~uniformed~~ peace officer after being
29 given a visual and audible signal as provided in **this section**
30 and in doing so exceeds the speed limit by twenty-five miles
31 per hour or more.

32 *b.* (1) The driver of a motor vehicle who commits a
33 violation under **this subsection** and who has previously
34 committed a violation under **this subsection** or **subsection 3,**
35 paragraph "a", is, upon conviction, guilty of a class "~~D~~" "C"

1 felony.

2 (2) The driver of a motor vehicle who commits a violation
3 under this subsection and who has previously committed a
4 violation under subsection 3, paragraph "b", commits a class "B"
5 felony.

6 3. a. The driver of a motor vehicle commits a class "D"
7 felony if the driver willfully fails to bring the motor vehicle
8 to a stop or otherwise eludes or attempts to elude a marked or
9 unmarked official law enforcement vehicle that is driven by a
10 ~~uniformed~~ peace officer after being given a visual and audible
11 signal as provided in [this section](#), and in doing so exceeds the
12 speed limit by twenty-five miles per hour or more, and if any
13 of the following occurs:

14 (1) The driver is participating in a public offense, as
15 defined in [section 702.13](#), that is a felony.

16 (2) The driver is in violation of [section 321J.2](#).

17 (3) The driver is in violation of [section 124.401](#).

18 ~~(4) The offense results in bodily injury to a person other~~
19 ~~than the driver.~~

20 b. The driver of a motor vehicle commits a class "C" felony
21 if the driver willfully fails to bring the motor vehicle to
22 a stop or otherwise eludes or attempts to elude a marked or
23 unmarked official law enforcement vehicle that is driven by a
24 peace officer after being given a visual and audible signal as
25 provided in this section, and in doing so the offense results
26 in bodily injury to a person other than the driver.

27 ~~b.~~ c. (1) The driver of a motor vehicle who commits a
28 second or subsequent violation under [this subsection](#) paragraph
29 "a" is, upon conviction, guilty of a class "C" felony.

30 (2) The driver of a motor vehicle who commits a second or
31 subsequent violation under paragraph "b" is, upon conviction,
32 guilty of a class "B" felony.

33 4. Notwithstanding section 809.5 or any other provision
34 of law to the contrary, a law enforcement agency may retain
35 possession of a motor vehicle suspected to have been

1 operated by a person in violation of this section until final
2 disposition of any criminal proceeding related to the violation
3 if the person was a registered owner of the vehicle at the time
4 of the suspected violation.

5 Sec. 18. Section 707.6A, subsections 2 and 4, Code 2021, are
6 amended to read as follows:

7 2. a. A person commits a class "C" felony when the person
8 unintentionally causes the death of another by ~~any of the~~
9 ~~following means:~~

10 ~~a.~~ Driving driving a motor vehicle in a reckless manner
11 with willful or wanton disregard for the safety of persons or
12 property, in violation of [section 321.277](#).

13 (1) For the purposes of this paragraph "a", a person's use
14 of a hand-held electronic communication device to write, send,
15 or view an electronic message while driving a motor vehicle
16 shall be considered prima facie evidence that the person was
17 driving the motor vehicle in a reckless manner with willful
18 or wanton disregard for the safety of persons or property, in
19 violation of [section 321.277](#).

20 (2) Subparagraph (1) shall not apply to any of the
21 following:

22 (a) A member of a public safety agency, as defined in
23 section 34.1, performing official duties.

24 (b) A health care professional in the course of an emergency
25 situation.

26 (c) A person receiving safety-related information including
27 emergency, traffic, or weather alerts.

28 (3) For the purposes of this paragraph "a", the following
29 definitions apply:

30 (a) "*Electronic message*" includes images visible on the
31 screen of a hand-held electronic communication device including
32 a text-based message, an instant message, a portion of
33 electronic mail, an internet site, a social media application,
34 or a game.

35 (b) "*Hand-held electronic communication device*" means a

1 mobile telephone or other portable electronic communication
 2 device capable of being used to write, send, or view an
 3 electronic message. *“Hand-held electronic communication device”*
 4 does not include a voice-operated or hands-free device which
 5 allows the user to write, send, or view an electronic message
 6 without the use of either hand except to activate or deactivate
 7 a feature or function. *“Hand-held electronic communication*
 8 *device”* does not include a wireless communication device used to
 9 transmit or receive data as part of a digital dispatch system.
 10 *“Hand-held electronic communication device”* includes a device
 11 which is temporarily mounted inside the motor vehicle, unless
 12 the device is a voice-operated or hands-free device.

13 (c) The terms *“write”*, *“send”*, and *“view”*, with respect to
 14 an electronic message, mean the manual entry, transmission,
 15 or retrieval of an electronic message, and include playing,
 16 browsing, or accessing an electronic message.

17 *b. Eluding* A person commits a class “B” felony when the
 18 person unintentionally causes the death of another by eluding
 19 or attempting to elude a pursuing law enforcement vehicle, in
 20 violation of [section 321.279](#), if the death of the other person
 21 directly or indirectly results from the violation.

22 4. A person commits a class “D” felony when the person
 23 unintentionally causes a serious injury, ~~as defined in section~~
 24 ~~702.18~~, by any of the means described in [subsection 1 or 2](#),
 25 paragraph “a”. A person commits a class “C” felony when the
 26 person unintentionally causes a serious injury by any means
 27 described in subsection 2, paragraph “b”. For purposes of this
 28 subsection, “serious injury” means as defined in section 702.18.

29 **Sec. 19. NEW SECTION. 724.4D Duty to carry firearm — peace**
 30 **officers.**

31 A peace officer shall carry a firearm at all times while
 32 engaged in the performance of official duties.

33

EXPLANATION

34 The inclusion of this explanation does not constitute agreement with
 35 the explanation’s substance by the members of the general assembly.

1 This bill relates to public records including
2 confidentiality, access, and the enforcement of public
3 records violations, and uniform commercial code filings;
4 certain employment matters including benefits, workers'
5 compensation, civil actions, and civil immunity; and law
6 enforcement including law enforcement officer rights, eluding
7 law enforcement, and carrying weapons; and provides penalties.

8 DIVISION I — PUBLIC RECORDS.

9 ADDRESS CONFIDENTIALITY PROGRAM. The bill includes
10 individuals who are attempting to escape from actual
11 or threatened assault to be included in the address
12 confidentiality program pursuant to Code chapter 9E. The
13 bill expands the definition of "eligible person" to include a
14 resident of this state, an adult, a minor, or an incapacitated
15 person as defined in Code section 633.701, who is a victim
16 of an assault; an active or retired state or local judicial
17 officer, or a spouse or child of such a person; an active or
18 retired state or local prosecuting attorney, or a spouse or
19 child of such a person; or an active or retired peace officer,
20 or a spouse or child of such a person.

21 PUBLIC RECORDS VIOLATIONS. Under current law, a person
22 found by a court to be in violation of the Iowa open records law
23 (Code chapter 22) shall not be assessed damages if the person
24 proves the person had good reason to believe and in good faith
25 believed facts, which, if true, would have indicated compliance
26 with the open records law. The bill defines "good reason to
27 believe and in good faith believed" to mean the person engaged
28 in a balancing test in weighing the individual privacy interest
29 against the public's need to access the record based upon the
30 facts.

31 DIVISION II — FRAUDULENT FILINGS — UNIFORM COMMERCIAL
32 CODE. The bill provides that a filing office may refuse to
33 accept a financing statement that is determined to not have
34 been created pursuant to the UCC, is intended for an improper
35 purpose, names the same person as both the debtor and the

1 secured party, describes collateral not within the scope
2 of applicable law, or is filed for a purpose other than a
3 transaction within the scope of the UCC. If the filing office
4 becomes aware that a financial statement or other record was
5 not created pursuant to the UCC or was intended for an improper
6 purpose, the filing office shall review the record and relevant
7 circumstance, and determine if the record was wrongfully filed.
8 If the record is wrongfully filed, it shall be deemed void and
9 ineffective and the filing office shall remove the record from
10 the index and communicate that to the person who filed the
11 record and to other persons, as appropriate.

12 DIVISION III — PUBLIC SAFETY EMPLOYEES — ACCRUED SICK
13 LEAVE UPON RETIREMENT. The bill provides that a public safety
14 employee who retires and has applied for retirement benefits
15 under an eligible retirement system shall receive credit for
16 all accumulated, unused sick leave which shall be converted at
17 a current value and credited to an account for the employee for
18 the purpose of paying the employee's cost of monthly premiums
19 of a health insurance plan. Upon the death of a retired
20 public safety employee, the spouse or surviving spouse shall
21 be entitled to the same benefits. This Code section does
22 not apply to employees pursuant to Code sections 509A.13 and
23 509A.13A.

24 Current law provides that an original proceeding regarding
25 a contest of liability for workers' compensation benefits can
26 be maintained if commenced within two years from the date of
27 the occurrence of the injury for which benefits are claimed.
28 The bill provides that such a proceeding can be maintained if
29 commenced within that period or within one year from the date a
30 denial of liability is received by the employee, whichever is
31 later.

32 DIVISION IV — WORKERS' COMPENSATION — ACTIONS AND
33 OFFSETS. The bill provides that any workers' compensation
34 benefits received by a member for past medical expenses or
35 future medical expenses, or any workers' compensation benefits

1 received by a member for reimbursement of vacation time used,
2 sick time used, or for any unpaid time off from work, shall not
3 be offset against and not considered payable in lieu of any
4 retirement allowance payable under the Iowa public employees'
5 retirement system on account of the same disability.

6 DIVISION V — CIVIL SERVICE COMMISSION EXAMINATIONS.

7 The bill provides that the civil service commission shall
8 hire persons with expertise to prepare and administer the
9 examinations approved by the commission for entrance and
10 promotional examinations. Under current law, the civil service
11 commission may hire a person with expertise to prepare and
12 administer entrance and promotional examinations approved by
13 the commission.

14 DIVISION VI — STATE AND MUNICIPAL TORT CLAIMS. The bill
15 provides tort immunity for state employees and employees of
16 governmental subdivisions for any claim arising out of an act
17 or omission of the employee in the execution of or enforcement
18 of any law unless the employee's act constitutes a willful and
19 wanton act or omission in office. The bill also provides that
20 an employee is not personally liable for a claim arising out of
21 an act of the employee taken in execution or enforcement of any
22 law unless the act constitutes willful and wanton misconduct.

23 The bill provides that the governing body of a municipality
24 shall purchase and maintain insurance or join a local
25 government risk pool for claims for punitive damages in tort
26 actions against its law enforcement and public safety officers,
27 employees, and volunteers, whether elected or appointed,
28 arising out of an alleged act or omission occurring within the
29 scope of such a person's employment or duties. The governing
30 body may purchase and maintain insurance or join a local
31 government risk pool for claims for punitive damages against
32 its law enforcement and public safety officers, employees, and
33 volunteers for other tort actions. The bill does not waive a
34 defense of governmental immunity to any claim or action brought
35 against a law enforcement or public safety officer, employee,

1 or volunteer.

2 DIVISION VII — LAW ENFORCEMENT.

3 PEACE OFFICER BILL OF RIGHTS. The bill provides that, in
4 addition to any other remedies available, an officer as defined
5 in Code section 80F.1 shall have the right to pursue civil
6 remedies under the law against any person, group of persons,
7 employer, organization, or corporation for damages arising
8 from a false complaint, or any other violation of Code chapter
9 80F (peace officers and public safety and emergency personnel)
10 including actual damages, court costs, and reasonable
11 attorney fees. The bill provides that a formal administrative
12 investigation, informal inquiry, or interview of an officer
13 shall not be conducted unless a complaint against the officer
14 is filed within 180 days after the alleged action occurred. If
15 a formal administrative investigation of an officer results
16 in the removal, discharge, suspension, or disciplinary action
17 against the officer, any punitive action shall be held in
18 abeyance until the conclusion of any appeal or grievance
19 exercised by the officer.

20 ELUDING LAW ENFORCEMENT — PENALTIES. The bill provides
21 that a driver of a motor vehicle who willfully fails to bring
22 the vehicle to a stop or otherwise eludes a marked or unmarked
23 official law enforcement vehicle driven by a peace officer
24 after being given a visual and audible signal to stop is guilty
25 of an aggravated misdemeanor in violation of Code section
26 321.279(1). A driver who commits a subsequent violation of
27 Code section 321.279(1) is guilty of a class "D" felony. The
28 driver also commits a class "D" felony if the driver willfully
29 fails to bring the motor vehicle to a stop or otherwise eludes
30 a marked or unmarked official law enforcement vehicle and in
31 doing so exceeds the speed limit by 25 miles per hour or more
32 after being given a visual signal to stop in violation of
33 Code section 321.279(2). A driver who commits a subsequent
34 violation under Code section 321.279(2) or (3) is guilty of a
35 class "C" or "B" felony. A driver of a motor vehicle commits

1 a class "C" felony if the driver willfully fails to bring the
2 motor vehicle to a stop or otherwise eludes or attempts to
3 elude a marked or unmarked official law enforcement vehicle
4 that is driven by a peace officer after being given a visual
5 and audible signal to stop, and in doing so results in bodily
6 injury to a person other than the driver. The driver who
7 commits a subsequent violation is guilty of a class "B" felony.

8 The bill provides that a person commits a class "B" felony
9 when the person unintentionally causes the death of another
10 when eluding or attempting to elude a pursuing law enforcement
11 vehicle in violation of Code section 321.279, if the death
12 of the person results from the violation. A person commits
13 a class "C" felony when the person unintentionally causes
14 serious injury, as defined in Code section 702.18, by eluding
15 or attempting to elude a pursuing law enforcement vehicle in
16 violation of Code section 321.279.

17 An aggravated misdemeanor is punishable by confinement for
18 no more than two years and a fine of at least \$855 but not more
19 than \$8,540. A class "D" felony is punishable by confinement
20 for no more than five years and a fine of at least \$1,025
21 but not more than \$10,245. A class "C" felony is punishable
22 by confinement for no more than 10 years and a fine of at
23 least \$1,370 but not more than \$13,660. A class "B" felony is
24 punishable by confinement for no more than 25 years.

25 The bill allows a law enforcement agency to retain
26 possession of a vehicle suspected to have been operated by a
27 person eluding or attempting to elude a law enforcement vehicle
28 until final disposition of any criminal proceeding related
29 to the violation if the person was a registered owner of the
30 vehicle at the time of the suspected violation.

31 By operation of law, Code section 811.1 would prohibit a
32 person convicted under the bill of unintentionally causing a
33 death by eluding from being admitted to bail while awaiting
34 judgment of conviction and sentencing following either a plea
35 or verdict of guilty. Code section 811.1 would also prohibit

1 a person convicted under the bill of unintentionally causing
2 a serious injury by eluding from being admitted to bail
3 during the appeal process, in addition to such prohibition for
4 convictions for causing a death by eluding as required under
5 current law.

6 PEACE OFFICER — DUTY TO CARRY FIREARM. The bill requires a
7 peace officer to carry a firearm at all times while engaged in
8 the performance of official duties.